

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Amanda Harouche	Team: Squad #16	CCRB Case #: 201410419	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 09/23/2014 7:40 PM	Location of Incident: Willowbrook Road and Forest Avenue	Precinct: 121	18 Mo. SOL 3/23/2016	EO SOL 3/23/2016	
Date/Time CV Reported Tue, 10/14/2014 8:32 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 10/14/2014 8:32 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Mathew Reich	00122	933211	NARCBSI
2. DT3 Philip Vaccarino	4885	943905	NARCBSI
3. SGT John Ryan	00000	940685	NARCBSI

Officer(s)	Allegation	Investigator Recommendation
A.SGT John Ryan	Abuse: Sgt. John Ryan stopped the car in which § 87(2)(b) was an occupant.	
B.DT3 Mathew Reich	Abuse: Det. Mathew Reich stopped the car in which § 87(2)(b) was an occupant.	
C.DT3 Philip Vaccarino	Abuse: Det. Philip Vaccarino stopped the car in which § 87(2)(b) was an occupant.	
D.DT3 Mathew Reich	Abuse: Det. Mathew Reich threatened § 87(2)(b) with the use of force.	
E.DT3 Mathew Reich	Discourtesy: Det. Mathew Reich spoke discourteously to § 87(2)(b)	
F.DT3 Mathew Reich	Abuse: Det. Mathew Reich frisked § 87(2)(b)	
G.DT3 Mathew Reich	Abuse: Det. Mathew Reich searched § 87(2)(b)	
H.DT3 Mathew Reich	Abuse: Det. Mathew Reich searched the car in which § 87(2)(b) was an occupant.	
I.DT3 Mathew Reich	Abuse: Det. Mathew Reich refused to provide his name and shield number to § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		
§ 87(4-b), § 87(2)(g)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		

Case Summary

On September 23, 2014, at approximately 7:35 p.m., § 87(2)(b) drove to 153 Willowbrook Road in Staten Island. He parked his car in a legal parking space on the street, left it running with his § 87(2)(b) old daughter sitting in the front seat, exited his car and entered his friend's house to pick up an envelope containing a list of cleaning products. He left his friend's house after about one minute, got back into his car and drove away. § 87(2)(b) drove his car about one hundred yards before his car was stopped by Det. Philip Vaccarino, Sgt. John Ryan and Det. Mathew Reich of Narcotics Borough Staten Island (**Allegations A, B, and C**). § 87(2)(b) stepped out of his vehicle and spoke to Det. Reich. Det. Reich allegedly threatened to knock § 87(2)(b)'s "fucking teeth" out, told § 87(2)(b) that he was "full of shit" and called him a "fucking liar." (**Allegations D and E**). Det. Reich allegedly frisked § 87(2)(b) entered his pants pocket, and looked through his wallet. (**Allegations F and G**) § 87(2)(b) had four or five prescription pill bottles which Det. Reich allegedly opened and emptied onto the trunk. Det. Reich matched the pills to the labels of the prescription bottles. Det. Reich allegedly searched § 87(2)(b)'s car (**Allegation H**). When Det. Reich walked away from § 87(2)(b) towards his police car, § 87(2)(b) asked him for his name and shield number; Det. Reich looked at § 87(2)(b) but did not respond to him (**Allegation I**). § 87(2)(b) was not summonsed or arrested.

This case was reassigned from Inv. Lauren Kerstein on December 23, 2014 due to the restructuring of the agency.

Mediation, Notice of Claim, and Criminal Histories

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
 - § 87(2)(b)
 - § 87(2)(b)
 - § 87(2)(b)
 - § 87(2)(b)
- Det. Reich has been a member of the service for almost 12 years and there are three substantiated CCRB allegations against him. In Case #200503310 a question/and or stop and refusal to provide name/shield number allegations were substantiated against him. The CCRB recommended charges and the NYPD imposed instructions. In Case #201305607 a frisk was substantiated against Det. Reich. The CCRB recommended formalized training but the NYPD disposition is still pending. Det. Reich currently has five additional open cases with the CCRB (Case #201409178, Case #201412022, Case #201501303, Case #201502332 and Case#201504633). Not including this case, Det. Reich has ten vehicle search allegations, three threat of force allegations (which include Det. Reich saying, "Shut the fuck up before I bash your head in," "Shut the fuck up before I break your face" and that he would hose

someone down), eight discourtesy allegations (which include Det. Reich saying, “Shut up,” “Shut the fuck up,” “Shit,” “Bullshit,” “Lowlife,” “Asshole,” “Fuck up” and “Bitch”), four search of person allegations and three refusal to provide name and shield allegations pleaded against him (encl. 1a-e).

- Det. Vaccarino has been a member of the service for eight years and there are two substantiated CCRB allegations against him. In case #201204520, a vehicle search and a frisk were substantiated. The CCRB recommended charges and the NYPD issued a Command Discipline B. Det. Vaccarino currently has two additional open cases with the CCRB (Case #201502938 and #201501303). § 87(2)(g)
- Sgt. Ryan has been a member of the service for nine years and there are no substantiated CCRB allegations against him. Since this incident, Sgt. Ryan has been promoted to lieutenant. He currently has two additional open cases with the CCRB (Case #201409178 and Case #201500285). § 87(2)(g) (encl.1h-j).

Findings and Recommendations

Explanation of Subject Officer Identification

- Although § 87(2)(b) stated that four officers were present, the investigation determined that only Det. Reich, Sgt. Ryan and Det. Vaccarino were assigned to the police van that stopped § 87(2)(b)'s vehicle. Additionally, Det. Reich, Sgt. Ryan and Det. Vaccarino acknowledged stopping § 87(2)(b)'s car.
- Det. Reich acknowledged being the operator of the police car and being the officer that interacted with § 87(2)(b).

Investigation Findings and Recommendations

Allegation A – Abuse of Authority: Sgt. John Ryan stopped the car in which

§ 87(2)(b) **was an occupant.**

Allegation B – Abuse of Authority: Det. Mathew Reich stopped the car in which

§ 87(2)(b) **was an occupant.**

Allegation C – Abuse of Authority: Det. Philip Vaccarino stopped the car in which

§ 87(2)(b) **was an occupant.**

§ 87(2)(b) drove to 153 Willowbrook Road in Staten Island. He parked his car in a legal parking space on the street, left it running with his nine year old daughter sitting in the front seat, exited his car and entered his friend's house. He left his friend's house after approximately one minute with an envelope, got back into his car and drove away. § 87(2)(b) drove about one hundred yards before his car was stopped by Det. Vaccarino, Sgt. Ryan and Det. Reich.

In his verified statement, § 87(2)(b) stated that his friend was waiting outside for him but in his phone statement he stated that he briefly entered his friend's house. The officers told § 87(2)(b) that he was speeding, which he denied; § 87(2)(b) stated that he was driving anywhere from 30 to 40 miles per hour in a 30 miles per hour zone. No officer ever mentioned that he had been double parked (encl. 2a-k).

Det. Reich, Sgt. Ryan and Det. Vaccarino stated that they observed § 87(2)(b) parked and enter a home that was known as a drug prone location which Det. Reich stated was the subject of an ongoing narcotics investigation. § 87(2)(b) entered and then exited the home within a short period of time.

Once § 87(2)(b) drove down the block, Det. Reich pulled § 87(2)(b)'s car over. Det. Reich did not remember if there was any discussion about pulling § 87(2)(b) over and he did not remember whose decision it was to pull § 87(2)(b) over. Det. Reich pulled § 87(2)(b) over because the officers wanted to question him about who was inside the location and how many dealers were present inside the location. There was no other reason that Det. Reich remembered for pulling § 87(2)(b) over. Det. Reich did not remember § 87(2)(b) speeding (encl. 3a-i).

Det. Vaccarino was not sure who made the decision to pull § 87(2)(b)'s vehicle over but thought that either Det. Reich or Sgt. Ryan made that decision. The officers pulled § 87(2)(b) over because they believed that a narcotics transaction might have occurred inside the house and they wanted to investigate. Det. Vaccarino believed that a transaction might have occurred because § 87(2)(b) quickly entered and then exited the narcotics prone location. There was no other reason for pulling § 87(2)(b) over. Det. Vaccarino did not recall being informed that § 87(2)(b) had committed any vehicle infractions (encl. 4a-i). He would not have been able to see if § 87(2)(b) committed any vehicle infractions because he was sitting in the back seat.

Sgt. Ryan stated that § 87(2)(b) doubled park before entering the narcotics prone location. § 87(2)(b) had a brown paper bag in his hand when he exited the house. Sgt. Ryan's attention was drawn to § 87(2)(b) because his car was double parked and he entered and exited a house in an area that is known to sell narcotics. § 87(2)(b) entering and then exiting the house very quickly raised Sgt. Ryan's suspicion of a narcotics sale. Sgt. Ryan and his officers stopped § 87(2)(b)'s car for being double parked in front of the house. The double parking violation was the only reason § 87(2)(b)'s car was stopped. Sgt. Ryan did not remember a discussion about § 87(2)(b)'s car being double parked in the police van and he did not know whose decision it was to stop § 87(2)(b)'s car. Sgt. Ryan did not summons § 87(2)(b) for double parking but instead chose to warn and admonish him because he thought that a warning would be better for § 87(2)(b) than a summons (encl. 5a-g).

§ 87(2)(b), § 87(2)(e), § 87(2)(f)

If there is cause to stop a person for a traffic violation, that stop is lawful, regardless of whether the officers' true motives are to investigate something else. People v. Robinson, 2014 N.Y. App. Div. LEXIS 7787 (encl. a-b). Officers can conduct a vehicle stop if there is reasonable suspicion that an occupant committed a crime. People v. Taylor, 31 A.D.3d 1141 (App. Div. 4th Dep't. 2011) (encl. c-d). Entering and exiting a building after approximately 30 minutes from which drugs were allegedly being sold does not provide reasonable suspicion of criminal activity. People v. Morrow, 97 A.D.3d 991 (App. Div. 3rd Dep't. 2012)(encl. v-w)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation D – Abuse of Authority: Det. Mathew Reich threatened § 87(2)(b) with the use of force.

Allegation E – Discourtesy: Det. Mathew Reich spoke discourteously to § 87(2)(b)

§ 87(2)(b)

In both his verified interview and his phone statement, § 87(2)(b) alleged that Det. Reich threatened to knock his “fucking teeth” out in front of his § 87(2)(b)-old daughter. During his verified interview, § 87(2)(b) also alleged that when he tried to explain to Det. Reich that all of the pills he had were prescribed to him because he sustained serious injuries in a car accident, Det. Reich told him that he was “full of shit.” § 87(2)(b) also alleged that Det. Reich told him that he was a “fucking liar.” § 87(2)(b) did not allege either of these statements in his phone statement) (encl. 2a-k).

Det. Reich denied using any discourtesies with § 87(2)(b). He denied saying that he would knock § 87(2)(b)’s “fucking teeth” out, telling § 87(2)(b) that he was “full of shit” or telling § 87(2)(b) that he was a “fucking liar” (encl. 3a-i).

Both Det. Vaccarino and Sgt. Ryan denied that they heard Det. Reich threaten to knock § 87(2)(b)’s teeth out or use any discourtesies with § 87(2)(b) (encl. 4a-i, 5a-g).

§ 87(2)(b), § 87(2)(g)

Allegation F – Abuse of Authority: Det. Mathew Reich frisked § 87(2)(b)

Allegation G – Abuse of Authority: Det. Mathew Reich searched § 87(2)(b)

During his CCRB interview § 87(2)(b) stated that Det. Reich patted up and down his chest area and waistband area and then entered his jean pants pockets. § 87(2)(b) stated that Det. Reich first took his wallet out of his pocket and searched through his wallet and that Det. Reich also took four or five prescription pill bottles out of one of § 87(2)(b)’s pockets and opened each pill bottle and placed the pills on § 87(2)(b)’s trunk to make sure that the pills matched the labels on the prescription pill bottles. § 87(2)(b), § 87(2)(a) CVR § 50-b

(encl. 2a-k).

Det. Reich stated that he did not make any physical contact with § 87(2)(b) and he denied frisking and searching § 87(2)(b) during the incident. Det. Reich stated that there would have been no reason to frisk or search § 87(2)(b) since he told the officers that he was actively working for the police department and any contraband that he had on him would have been turned over to his handler anyway. Det. Reich did not recall seeing prescription pill bottles while he was interacting with § 87(2)(b) (encl. 3a-i).

Det. Vaccarino did not remember seeing any officer make physical contact with § 87(2)(b). He did not remember § 87(2)(b) being frisked or searched and he did not remember seeing prescription pills on the trunk of § 87(2)(b)’s car during this incident (encl. 4a-i).

Sgt. Ryan did not see any officer frisk or search § 87(2)(b). Sgt. Ryan remembered § 87(2)(b) saying that he had prescription pill bottles in his bag and thought that § 87(2)(b)

might have taken these bottles out of his bag and placed them on the trunk of the car himself. He did not see an officer open prescription bottles and place them on the trunk of his car (encl. 5a-g).

§ 87(2)(b), § 87(2)(g)

Allegation H – Abuse of Authority: Det. Mathew Reich searched the car in which § 87(2)(b) was an occupant.

§ 87(2)(b) stated that Det. Reich asked § 87(2)(b) if there was anything in his vehicle that he should know about. § 87(2)(b) told Det. Reich that there was nothing in his vehicle and told him to “search away.” § 87(2)(b) was inconsistent as to when Det. Reich started searching his vehicle.

During his verified statement, § 87(2)(b) stated twice that he told Det. Reich to “search away” before Det. Reich began searching his car but then later in the interview he stated that Det. Reich had already begun searching his car when § 87(2)(b) told him to “search away.” In his phone statement, § 87(2)(b) stated that Det. Reich told him that he was going to search his vehicle and § 87(2)(b) responded by saying, “Fine look for whatever you think you’re going to find” and then Det. Reich started searching § 87(2)(b)’s vehicle (encl. 2a-k).

Det. Reich stated that he did not ask § 87(2)(b) if there was anything in his vehicle that he should know about, and he did not remember having any type of conversation with § 87(2)(b) regarding searching his vehicle, and that neither he nor any other officer entered or searched § 87(2)(b)’s vehicle (3a-i).

Det. Vaccarino did not remember Det. Reich or any other officer searching § 87(2)(b)’s car (encl. 4a-i). Sgt. Ryan stated that § 87(2)(b)’s car was not searched by any officer (encl. 5a-g).

§ 87(2)(b), § 87(2)(g)

Allegation I- Abuse of Authority: Det. Mathew Reich refused to provide his name and shield number to § 87(2)(b)

In his phone statement, § 87(2)(b) alleged that as Det. Reich was walking back to his police car, § 87(2)(b) said, “I want your name or shield number. I want something.” and that Det. Reich turned around and looked at § 87(2)(b) but did not respond to him. § 87(2)(b) did not allege this during his verified interview.

Det. Reich stated that § 87(2)(b) might have asked for his name during this incident and that if he had asked, Det. Reich would have “100%” provided it because he always gives his name when he is asked.

Sgt. Ryan did not remember § 87(2)(b) asking any of the officers for their name and he did not remember hearing any of the officers providing their name to § 87(2)(b). Det. Vaccarino did not know of § 87(2)(b) asking any officer for their name.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g), § 87(4-b), § 87(2)(e), § 87(2)(f)

[Redacted text block]

§ 87(2)(b), § 87(2)(g), § 87(4-b)

[Redacted text block]

Pod: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____

Title/Signature

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Date